

IN RE: PETITION FOR VARIANCE
N/S Woodlawn Drive, 150' SW of
the c/l of Kriel Street
(1928 Woodlawn Drive)
2nd Election District
2nd Councilmanic District
Maximum Life Community Dev.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-43-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Maximum Life Community Development, by Reverend Carroll R. Johnson, Jr., its President. The Petitioner requests relief from Section 424.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 4-foot high chain link fence in lieu of a 5-foot high, wood stockade fence, for a proposed Child Care Center and related play area, in accordance with the site plan submitted and marked as Petitioner's Exhibit 1.

Appearing on behalf of the Petitioner were Rev. Carroll Johnson, Walter J. Daniels, the Petitioner's Architect, and Patricia H. Heidel, a representative with the Baltimore County Department of Community Development. The Petitioner was represented by Cassandra L. Wood, Esquire. There were no Protestants present.

Testimony and evidence presented established that the subject property, known as 1928 Woodlawn Drive, consists of 4.9 acres zoned D.R. 5.5, and is proposed for development with a child care center and outdoor play area in accordance with Petitioner's Exhibit 1. The relief requested relates to the proposed fencing of the play area as shown on the site plan and in the photographs submitted. The Petitioners propose securing the outdoor play area with a chain link fence as opposed to the required wood

stockade fence in order to insure an open, airy appearance. The Petitioners believe that a wood stockade fence around the play area would result in a more enclosed environment for the children and not allow sufficient light or air to pass through. Further, the Petitioners believe that the intent of the zoning regulations was to insure that the surrounding locale would be buffered from particular uses within a fenced area. In this instance, there are no adjoining or nearby residences that would be adversely affected by the use of a chain link fence. It should be noted that on the northwest side of the subject property is the Woodlawn Memorial Park, which is a playground and not a cemetery, and on the other side is an extensive wooded and open buffer area separating the subject property from the nearest dwelling. In addition, there is a line of trees along both sides of the property.

It is to be further noted that the Office of Planning and Zoning submitted Zoning Plans Advisory Committee comments in support of the Petitioner's request in order to preserve the "park like" setting of the play area. As noted in their comments, there are no adjacent residential uses within 100 feet of the proposed play area on the subject property.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

- 2 -

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of September, 1993 that the Petition for Variance requesting relief from Section 424.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 4-foot high chain link fence in lieu of a 5-foot high, wood stockade fence, for a proposed Child Care Center in

accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The proposed fencing must comply with the requirements set forth within the Department of Public Works' Zoning Advisory Committee comments dated August 16, 1993, and the comments submitted by Captain Jerry Pfeifer of the Baltimore County Fire Department dated August 6, 1993.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 9/9/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 9/9/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 9/9/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 9/9/93
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

September 8, 1993

(410) 887-4386

Cassandra L. Wood, Esquire
1146 Pelhamwood Road
Baltimore, Maryland 21234

RE: PETITION FOR VARIANCE
N/S Woodlawn Drive, 150' SW of the c/l of Kriel Street
(1928 Woodlawn Drive)
2nd Election District - 2nd Councilmanic District
Maximum Life Community Development - Petitioner
Case No. 94-43-A

Dear Ms. Wood:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

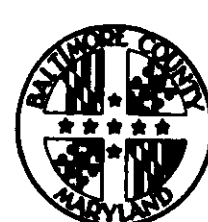
Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: People's Counsel

File



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1928 WOODLAWN DRIVE

which is presently zoned D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property allude in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SECTION 424.1.B - TO ALLOW A 4'-0" HIGH CHAIN LINK FENCE IN LIEU OF A 5'-0" WOOD STOCKADE FENCE.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

(SEE ATTACHED)

Property is to be posted and advertised as prescribed by Zoning Regulations. I or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

MAXIMUM LIFE COMMUNITY DEVELOPMENT

Legal Owner(s):

Carroll R. Johnson Jr.

Signature

Address

City

State

Zip

Address

City

State

Zip

Address

City

State

Zip

Address

City

State

Zip

ORDER RECEIVED FOR FILING
Date 9/9/93
By [Signature]

RECEIVED BY: [Signature] DATE: 9/27/93

ITEM # 44

PRACTICAL DIFFICULTIES

1. The property adjacent to the proposed fence is a Baltimore County park, Woodlawn Memorial Park. The uses of the playground and the park are similar and compatible. Whereas the intention of this regulation was to provide screening for residences.
2. All residential property is significantly beyond the 100' RTA from the playground.
3. The proposed fence and playground will be over 20' from the adjacent park property with existing mature evergreen trees that will screen views of the playground from the park.
4. The Transparency of the proposed four foot high chain link fence will provide the child within the playground to observe and be stimulated by the environment outside the fence.

94-43-A

ITEM # 44

ZONING DESCRIPTION

ZONING DESCRIPTION FOR 1928 WOODLAWN DRIVE.

Election District : 2 Councilmanic District : 2

Beginning at a point on the north side of Woodlawn Drive which is a 62 feet wide at a distance of 150 feet southwest of the centerline of Kriel Street. As recorded in deed Liber 1, Folio containing 213,444 s.f. or 4.9 acres then proceeding S 44 07' W 153.53', N 82 50' W 640.32', N 41 39' 30" E 136.34', N 26 32' E 108.24', N 48 20' 30" W 161.23', N 41 46' 30" E 193.16', S 52 44' E 309.93', S 52 45' E 430.17' to the point of beginning.



94-43-A

ITEM # 44



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 444 (ET)

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is _____

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5982 Statewide Toll Free
207 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

DATE: August 13, 1993

SUBJECT: 1928 Woodlawn Drive

INFORMATION:

Item Number: 44

Petitioner: Maximum Life Community

Property Size: _____

Zoning: D.R. 5.5

Requested Action: _____

Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:

An inspection of the above referenced property revealed that the proposed outdoor play area is surrounded by mature evergreen trees, and is adjacent to a park which includes a picnic grove and ballfields. There are no adjacent residential uses within 100' of the proposed play area.

In effort to preserve the "parklike setting" of this play area, the Office of Planning and Zoning supports the petitioner's requested variance.

Prepared by: *Jeffrey M. Long*

Division Chief: *Carol L. Kern*

PK/JL:lw

ZAC.44/PZONE/ZAC1

Pg. 1

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Zoning Advisory Committee

DATE: August 6, 1993

FROM: Captain Jerry Pfeiffer

SUBJECT: August 16, 1993 Meeting

#40 No Comments

#41 No Comments

#42 No Comments

#43 No Comments

#44 Fence shall be equipped with gates that are a minimum of 32" in width, in order to allow egress from fenced area.

#45 Buildings shall comply with the 1991 Life Safety Code and shall be equipped with hard-wired smoke detectors.

#47 Townhouses for which the initial building permits were applied after July 1, 1992 are required by State Law to be sprinklered.

A fire hydrant is required at Blackfoot Ct. and Pawnee Rd. and Blackfoot Ct. and Road A.

#48 No Comments

#49 It is recommended that the driveway be a minimum of 12'.

JB/cmc

RECEIVED
AUG 11 1993

ZADM

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
1/5 Woodlawn Dr., 150' SW/S of : OF BALTIMORE COUNTY
C/A Kriel St. (1928 Woodlawn Dr.):
2nd Election District : Case No. 94-43-A
2nd Councilmanic District :
MAXIMUM LIFE COMMUNITY :
DEVELOPMENT, Petitioner :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carol S. Desille
Carol S. Desille
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 19th day of August, 1993, a copy of the foregoing Entry of Appearance was mailed to Cassandra L. Wood, Esquire, 1146 Pelhamwood Rd., Baltimore, MD 21234, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

AUG 20 1993

ZADM

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME
WALTER J. DANIELS, AIA
Cassandra L. Wood, Esq.
Kathleen JOHNSON
Patricia H. Hanks

ADDRESS
10 W. MONTGOMERY ST. #100, BALTO 21201
8312 W. North Ave. BAL MD 21206
1146 Pelhamwood Rd BAL MD 21234
1928 WOODLAWN DR. 21207
Bald Co. Dept. Community
Development, Towson 21204

ZONING DESCRIPTION

ZONING DESCRIPTION FOR 1928 WOODLAWN DRIVE.

Election District : 2

Councilmanic District : 2

Beginning at a point on the north side of Woodlawn Drive which is a 62 feet wide at a distance of 150 feet southwest of the centerline of Kriel Street. As recorded in deed Liber Folio , containing 213.444 s.f. or 4.9 acres then proceeding S 44 07' W 153.53', N 82 50' W 640.32', N 41 39' 30" E 136.34', N 26 32' E 108.24', N 48 20' 30" W 161.23', N 41 46' 30" E 193.16', S 52 44' E 309.93', S 52 45' E 430.17' to the point of beginning.

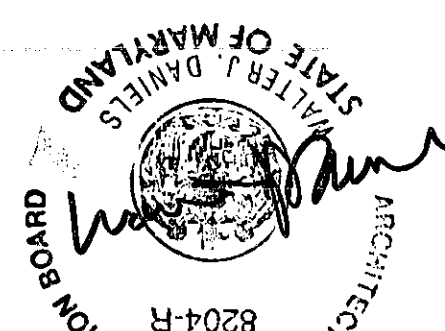


EXHIBIT NO. 2

ITEM # 44

PHOTO #1

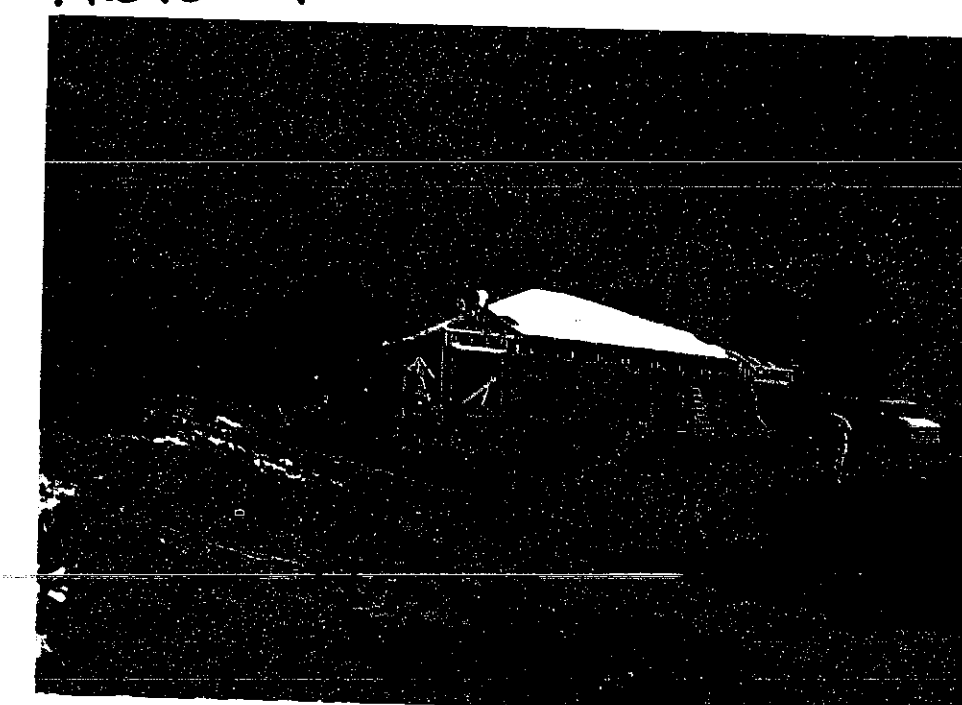


PHOTO #2



PHOTO #3

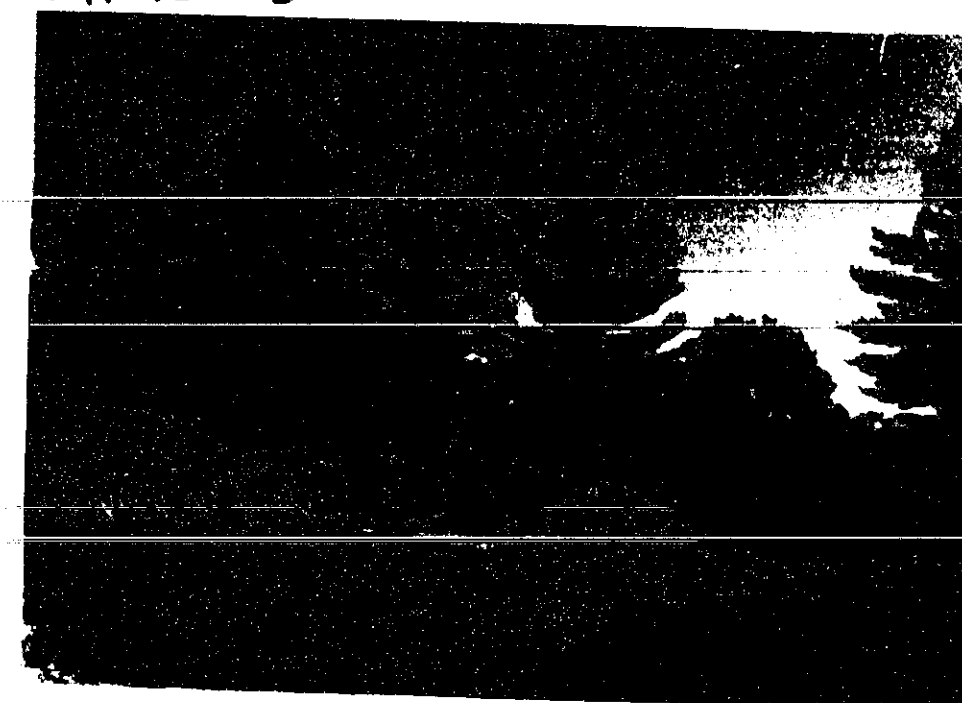


PHOTO #4



Ref No 3

94-43-A

PROPERTY INFORMATION

Area	Net Area	Impervious Area	Percentage of Impervious Surface
1.0 acres	4.9 acres	0.42 acres	8.4%

CHILD CARE CENTER

- No drop-off area will be provided. Parents are required to take children into the Center.
- The child care center does not require delivery. No delivery area will be provided.
- The parking lot is used for employee or parent parking and minor trash pick up. No dead-end turnaround will be provided.

FOREST CONSERVATION

- The existing 0.71 acre forest located in the northern part of the property will be retained. A Forest Conservation Easement has been established. (see Forest Conservation Plan)
- The Forest Conservation Easement Plan has been approved by DEPRM.
- A variance for 0.03 acres afforestation requirements has been granted by DEPRM.

EXISTING WELL AND SEPTIC

Prior to use and occupancy of the new child care center:

- The existing well shall be backfilled by a licensed well driller who will submit a well abandonment report.
- The existing septic system shall be pumped and removed or backfilled and the existing house shall be connected to the public sewer.

FOREST CONSERVATION EASEMENT NOTES

- There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
- Any Forest Conservation Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of those areas.
- A variance has been granted by Baltimore County Department of Environmental Protection and Resource Management from Regulations for Forest Conservation which became effective January 1, 1993. The Forest Conservation Easement shown hereon is reflective of the fact that this variance was granted.
- Any future development on this site must comply with the 0.03 acres of afforestation requirement.

LIST OF PROPERTY OWNERS

Name	Libert/Folio
1. Donald Clarke	6031/403
2. Charles Jones	6433/645
3. Ezio Ross	6514/755
4. Joanne Lipsher	6531/291
5. Lawrence Davis	
6. Joanne Harris	7698/571
7. John Gephart	
8. Stuart Dailey	4658/59
9. Irene Francis	4266/665
10. Henry Raymond	8056/83
11. Balto. County Dept. of Rec and Parks	2259/535
12. Board of Education	

SITE PLAN SCALE 1" = 20'

TAX MAP 86 GRID 19 PARCEL 222
TAX ACC. NO. 02-210007474 8711/734

ENGINEER
P.E.L.A. DESIGN, INC.
1033 HART ROAD
BALTIMORE, MD. 21286-8124
PHONE: 825-6023

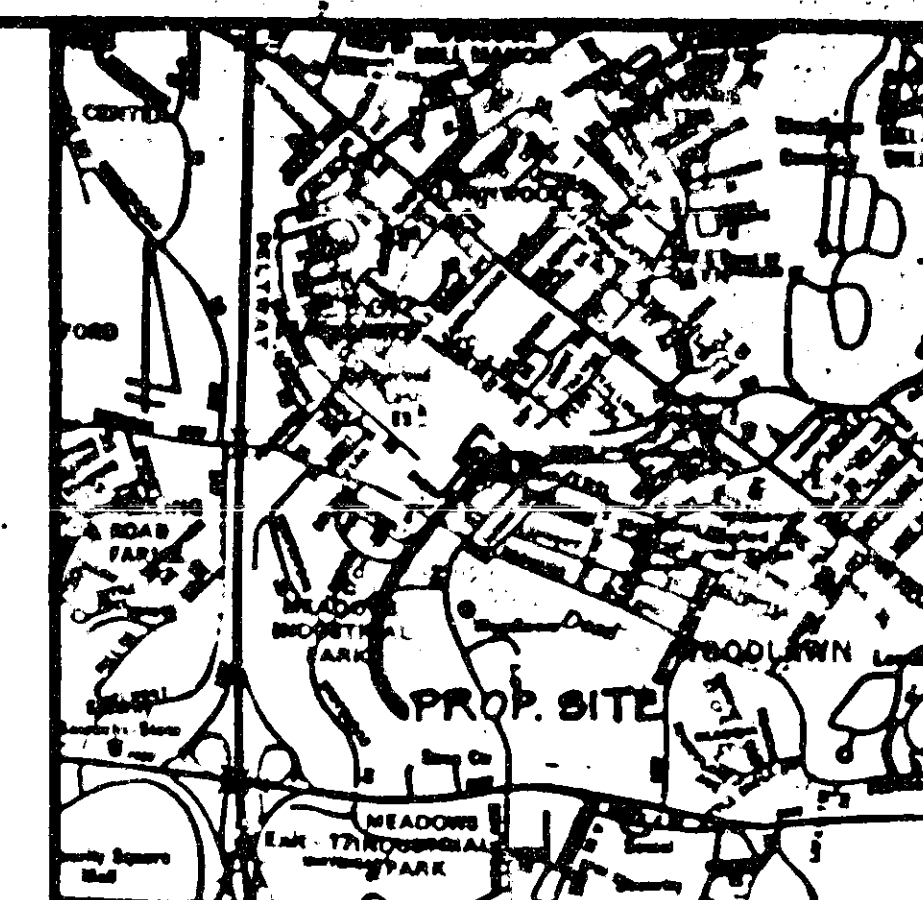
DEVELOPER/OWNER
MR. CARROLL JOHNSON, PRESIDENT
MAXIMUM LIFE COMMUNITY
DEVELOPMENT CORPORATION, INC.
1828 WOODLAWN DRIVE BALTIMORE, MD. 21207
PHONE: 410-250-1230

COUNCILMANIC DISTRICT 2
ELECTION DISTRICT 2
CENSUS TRACT NO. 4024.03
WATERSHED 23-27
SUBWATERSHED 64-05

Plat to accompany Petition for Zoning Variance

Drawing Number

11720114



VICINITY MAP
SCALE 1" = 2000'

GENERAL NOTES

- The current zoning of the subject property and surrounding is DR 3.5.
- There is an existing house located in the northwestern portion of the property.
- There are no petitions filed for variances, special exceptions, or special hearing, for the proposed development. A (b)(4) exemption is granted by ZADM.
- There is no stream, body of water and spring on the subject property.
- Soil types:

Symbol	Soils	Percent	Classification	Limitations for Building Use	Limitations for Land Use
Lic	Lager urban	5.1%	Good	Moderate (slope)	Severe (slope)
M82	Middle urban	3.4%	Good	Slight	Moderate (slope)
- There is less than one acre of wooded area in the northwestern end of the subject property.
- There is no 100 year floodplain on site.
- There is no wetland on site.
- To our best knowledge, there are no building, or site that has historic or archeological value.
- To our best knowledge, there is no area of critical state concern.
- To our best knowledge, there is no hazardous materials, underground fuel and chemical storage tanks.
- Existing ADT = 200 Anticipated ADT = 3,200 ± 67 - 1000 + 200 = 414 (The proposed child care center is 3,200 ± f)
- There are existing 8" water main and 8" sewer main located within the right-of-way of Woodlawn Drive.
- There is a well and a septic system on the site near the existing house. The well and the septic tank will be backfilled prior to the occupancy of the proposed child care center. The proposed gas and electric systems will be designed and installed by the Baltimore Gas and Electric Company.
- A new fire hydrant is proposed.
- Proposed grading is shown on Plan.
- A stormwater management plan has been prepared.
- A hydrogeological study is attached.
- Requirements: one parking space (p.s.) per employee (There will be eight employees.)
Required number of parking spaces: 1 p.s. employee + 8 employees = 8 p.s.
Proposed number of parking spaces: 1 p.s. (handicapped) + 8 p.s. (regular) = 9 p.s.
The proposed development does not encroach upon the Residential Transition Area.
Potential minor dust and noise emanation is expected during the construction phase only.
- The schematic landscape plan is shown on the plan.
- The subject property is not located within the Critical Area limit.
- The proposed driveway and parking lot will be paved with durable dustless paving material in accordance with MSHA standards. Parking spaces will be permanently striped.
- The proposed child care center development is in compliance with BCZR Section 424.1:
A. The proposed child care center will be licensed by the County.
B. Outdoor play area will be fenced by 5' high 4-ferule (at the County Code) to be located more than 20' from the property lines.
C. There is no existing group child care center on the subject property.
The maximum capacity of the proposed child care center is 40 children. Special exception/hearing is not required.
There will be eight (8) employees.
The proposed hours of operation is: 7:00 a.m. - 6:00 p.m. Monday thru Friday.
There will be no free standing sign for the proposed child care center.
The proposed child care center development is also in compliance with BCZR Section 424.7.
A. The lot size is more than one acre.
B. The proposed building setbacks exceed the required minimum building setbacks, i.e. 25' front yard setback, 50' side and rear yard setback.
C. The required 20' vegetative perimeter buffer is provided.

LEGEND

- EX TREES TO REMAIN
- EX TREES TO BE REMOVED
- EX SEWER LINE
- EX WATER LINE
- EX FENCE LINE
- WATERSHED
- CONC. PAVEMENT
- PROP. BUILD
- PROP. DRIVEWAY
- PROP. C.I. FENCE
- PROP. SEWER
- PROP. WATER
- LIMIT OF DISTURBANCE
- PROP. FIRE HYDRANT

LOCATION INFORMATION

Election District: 2
Councilmanic District: 2
1"=200' scale map: NW-3P
Zoning: 44
Lot size: 213,444 square feet
SEWER: ☒ WATER: ☒
Chesapeake Bay Critical Area: ☒
Prior Zoning Hearing: 10/16
Zoning Office USE ONLY!
reviewed by: ITEM # CASE #

Revisions

No.	Date	Ref.
1	04/25/93	10/16/93

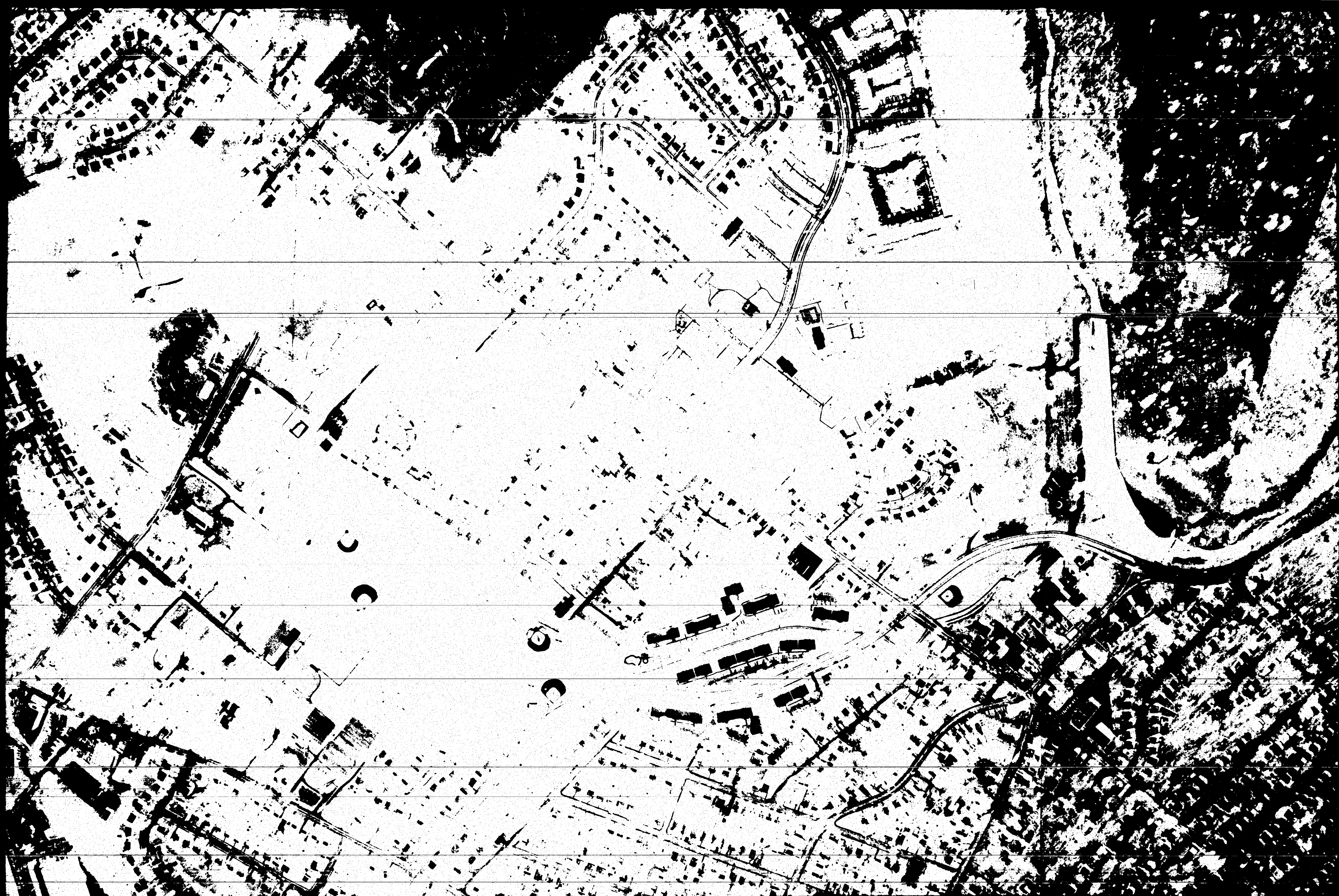
Date: FEB 17, 1993

Title

Drawing Number

11720114

94-43-A



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	WOODLAWN	N.W.
DATE OF PHOTOGRAPHY JANUARY 1966	17-21-44	3-4